

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AUGUSTINE MARTINEZ, et al.,
Plaintiffs,
v.
AC LUMBER, et al.,
Defendants.

Case No.: C 07-2710 PVT

**ORDER TO SHOW CAUSE WHY
REMAINING STATE LAW CLAIMS
SHOULD NOT BE DISMISSED
WITHOUT PREJUDICE; AND
ORDER SETTING SCHEDULE**

On October 28, 2009, this action was reassigned to Magistrate Judge Patricia V. Trumbull, based on the parties representation to District Judge Fogel that they would consent to proceed before a Magistrate Judge. Based on the file herein,

IT IS HEREBY ORDERED that no, later than November 17, 2009, each party shall file a written "Consent to Proceed Before a United States Magistrate Judge" (copies of which are available from the clerk of the court, or from the Forms (Civil) section of the court's website at www.cand.uscourts.gov).

IT IS FURTHER ORDERED that, no later than November 20, 2009, Plaintiffs shall file a brief showing cause why, in light of Plaintiffs' withdrawal of their only federal claims,¹ this case should not be dismissed without prejudice to Plaintiffs filing a complaint in state court. *See*

¹ *See* Joint Pretrial Conference Statement (docket no. 41) at 3:8-10, 4:11-13 & 5:16-18.

1 U.S.C. § 1367(c)(3); *see also Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7 (1988) (“in
2 the usual case in which all federal-law claims are eliminated before trial, the balance of factors to be
3 considered under the pendent jurisdiction doctrine-judicial economy, convenience, fairness, and
4 comity-will point toward declining to exercise jurisdiction over the remaining state-law claims”).²

5 IT IS FURTHER ORDERED that, in the event the court retains jurisdiction over Plaintiffs’
6 state law claims, the parties shall appear for a trial setting conference at 2:00 p.m. on December 8,
7 2009.

8 Dated: 11/6/09

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10 PATRICIA V. TRUMBULL
11 United States Magistrate Judge
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27 ² The statute of limitations concern articulated in *Carnegie-Mellon* was later addressed
28 when congress enacted the supplemental jurisdiction statute, which includes a provision tolling the
statute of limitations for state law claims when they are filed along with federal claims in district
court. *See* 28 U.S.C. § 1367(d)

Counsel automatically notified of this filing via the court's Electronic Case Filing system.

copies mailed on 11/9/09 to:

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/s/ Donna Kirchner for
CORINNE LEW
Courtroom Deputy